

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

Civil Action No. 05-10917 PBS

	)	
The HipSaver Company, Inc.,	)	
Plaintiff,	)	
	)	
v	)	
	)	
J.T. Posey Company,	)	
Defendant.	)	
	)	
_____	)	
	)	
J.T. Posey Company, Inc.,	)	
Counterclaim Plaintiff,	)	
	)	
v	)	
	)	
The HipSaver Company, Inc. and	)	
Edward L. Goodwin,	)	
Counterclaim Defendants.	)	
	)	
	)	
_____	)	

**PLAINTIFF’S MOTION TO COMPEL SUBSTANTIVE RESPONSE TO ITS  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

The Defendant, J.T. Posey (“Posey”) has stonewalled essential discovery by refusing to make any substantive response whatsoever to HipSaver’s Second Request for Production of Documents. Defendant’s refusal to respond to HipSaver’s Second Request significantly impedes HipSaver’s ability to prepare for trial, and specifically, HipSaver’s ability to prepare its expert case.

Accordingly, for the reasons stated in the accompanying memorandum, HipSaver requests an order under Rule 37 of the Federal Rules, compelling immediate, substantive

response to HipSaver's Second Request for Production of Documents. Alternatively, HipSaver seeks an order 1) barring the Defendant from presenting *any* expert testimony or expert evidence at trial or any other document, data, information, chalk, or exhibit at trial; and 2) permitting HipSaver to prepare and present an expert damages case based on national marketplace information alone.

**CERTIFICATE PURSUANT TO CIVIL LOCAL RULES 7.1 and 37.1**

I certify that counsel to the parties conferred by telephone on February 7, 2006, and were unable to resolve the issues identified in this Motion.

Respectfully submitted,  
THE HIPSAVER COMPANY, INC.  
By its Attorneys,

/s/ Courtney M. Quish  
Lee Carl Bromberg,  
BBO No.: 058480  
Edward J. Dailey  
BBO No.: 112220  
Courtney M. Quish  
BBO No.: 662288  
BROMBERG SUNSTEIN LLP  
125 Summer Street - 11th floor  
Boston, Massachusetts 02110-1618  
617.443.9292  
617.443.0004 (fax)  
[cquish@bromsun.com](mailto:cquish@bromsun.com)

Dated: February 8, 2006

**CERTIFICATE OF SERVICE**

I certify that this document has been filed through the Electronic Case Filing System of the United States District Court for the District of Massachusetts and will be served electronically by the court to the Registered Participants identified in the Notice of Electronic filing.

/s/ Courtney M. Quish  
February 8, 2006